

REGULAR MEETING MINUTES
CITY COUNCIL OF THE CITY OF BATH, MAINE
Wednesday, February 1, 2012 6:00 PM
City Council Chambers, Bath City Hall

Present: Councilors Brackett, Merrill, Paulhus, Rogers, Wyman, Eosco, Pagurko, Winglass and Chairman Sinclair.

Also in attendance were the City Manager – William Giroux, City Solicitor - Roger Therriault and City Clerk - Mary White.

Chairman Sinclair led the Pledge of Allegiance and City Clerk White called the Roll.

Main Street Bath Director Jennifer Geiger gave a presentation of the promo video Main Street Bath is using as part of their application for the 2012 Great American Main Street Award from the National Trust for Historic Preservation.

C. Public Hearings: 6:08 PM

1) Ordinance: LUC Add Article 17 – Wireless Communications Facilities (second passage)

Councilor Pagurko made a motion to waive the reading of the Ordinance. Councilor Wyman seconded the motion. All were in favor of the motion.

A complete copy of this Ordinance is on file with the February 1, 2012 Council Meeting Agenda materials in the Bath City Clerk's Office.

City Planner Andrew Deci stated the purpose of the Ordinance is to regulate the location of wireless communication facilities. He explained that the Land Use Code does not regulate the location of cell towers or what the submission requirements or criteria are. Mr. Deci said in the past applications had been reviewed using the standard site plan criteria. Because they are wireless communication devices they can have adverse effects on the community and could conflict with public safety frequencies. This amendment to the Land Use Code would provide a set of regulations that identify what an applicant needs to submit, criteria for approval and review and exactly where wireless towers can be placed within the City.

Councilor Pagurko made a motion to put the item on the floor for discussion. Councilor Wyman seconded the motion.

ROLL CALL VOTE:

YEAS: Brackett, Merrill, Paulhus, Rogers, Wyman, Eosco, Pagurko, Winglass

NAYS: None

Ordinance passed unanimously. 8-0

Chairman Sinclair stated the Ordinance passed would become law in 21 days.

D. Consent Agenda 6:10 PM

*2) Minutes of the previous meeting of January 4, 2012 Council Meeting. (Motion to Accept as Presented)

Councilor Rogers made a motion to accept the minutes as presented. Councilor Pagurko seconded the motion. All were in favor of the motion.

E. Time Devoted to Residents to Address The City Council 6:12 PM

There was no one that addressed Council at this time.

F. Ordinances, Resolutions and Orders 6:12 PM

3) Special Amusement License for The Beale Street Grill Inc. at 215 Water Street, Michael C. Quigg, President.

NOTICE

THE MUNICIPAL OFFICERS OF THE CITY OF BATH WILL CONDUCT A PUBLIC HEARING FOR APPROVING:

A SPECIAL AMUSEMENT LICENSE FOR:
The Beale Street Grill Inc. 215 Water Street
Michael C. Quigg, President

SAID PUBLIC HEARING WILL BE HELD ON WEDNESDAY, JANUARY 4, 2012 AT 6:02 P.M. IN THE COUNCIL CHAMBERS, 3RD FLOOR, AT CITY HALL, BATH, MAINE, AND ALL PERSON(S) MAY APPEAR TO SHOW CAUSE WHY SAID APPLICATION SHOULD OR SHOULD NOT BE APPROVED.

President of the Beale Street Grill Michael Quigg explained that the event they are seeking a Special Amusement License for would be a Pig Roast and the entertainment would consist of acoustic or lightly amplified music with one or two people performing.

Councilor Pagurko made a motion to put this item on the floor for discussion. Councilor Winglass seconded the motion.

VOTE:

YEAS: Brackett, Merrill, Paulhus, Rogers, Wyman Eosco, Pagurko, Winglass

NAYS: None

Passed unanimously. 8-0

4) Order: Rescind Order Rescinding Creation of Non-Profit for Armory Operations

Councilor Pagurko made a motion to waive the reading of this Order. Councilor Wyman seconded the motion.

VOTE on Waiving Motion:

YEAS: Brackett, Merrill, Wyman, Eosco, Winglass,

NAYS: Paulhus, Rogers, Pagurko

**ORDER RESCINDING
CREATION OF NON-PROFIT FOR ARMORY OPERATIONS**

WHEREAS, the City Council of the City of Bath on December 7, 2011 considered and approved an Order directing the Bath Development Corporation to create a non-profit named the Bath Armory, Inc.; and

WHEREAS, that non-profit would be run by a Board of Directors consisting of five (5) persons individually elected by a majority vote of the City Council; and

WHEREAS, said non-profit would be set up similarly to the Old Bath Customs House, Inc. using their current By-Laws as a guideline for operations of the Armory; and

WHEREAS, the Councilors have been afforded additional time to research the idea of creating the non-profit; and

WHEREAS, certain points were not brought up or made available to the Councilors at the meeting on December 7, 2011 in order to provide them with all the information available in order for them to make an informed decision on whether the creation of such a non-profit corporation to handle the operations of the Armory is in the best interests of the Inhabitants of the City of Bath in both the long and short term.

NOW, THEREFORE, BE IT ORDERED by the City Council of the City of Bath that the previous Order of December 7, 2011 approving the creation of a non-profit corporation for Armory operations be and hereby is rescinded.

Councilor Wyman made a motion to put this Order on the floor for discussion. Councilor Merrill seconded the motion.

Councilor Eosco explained why this item had been put on the agenda. She stated she felt the vote at the December meeting had happened too quickly and there wasn't enough time to think about it and discuss it and since that meeting, the Council has had a workshop regarding this matter and they are now more informed.

Harold Ames of 69 Academy Street asked Council to be more involved and have rules to protect the Armory building from the destruction the old YMCA had encountered.

Roo Dunn of 57 Green Street expressed his support in rescinding this Order and felt that City Staff could make sure the building is taken care of.

Recreation Director Steve Balboni explained the Skatepark Board by-laws were rewritten by the City Solicitor and readopted by the Board of Directors in 2008.

Councilor Merrill on the record encouraged the Recreation Department and the Skatepark Board of Directors to really make the facility represent the best of Bath.

Councilor Paulhus asked that the Council get annual reports.

Claire Berkowitz of 18 Seekins Drive, Chair of the Skatepark/Youth Meetinghouse Board, stated that she felt the Council and the Skatepark Board of Directors should work together to make a fit. She stated the old YMCA building was not in pristine shape when the Skatepark took it over and they had worked hard to make it presentable.

VOTE:

YEAS: Brackett, Merrill, Paulhus, Wyman, Eosco, Winglass

NAYS: Rogers, Pagurko

Motion passed.

5) Order to Solicit Bids for Trufant Street

Chairman Sinclair read the following Order:

ORDER TO SOLICIT BIDS

WHEREAS, the City of Bath has, through nonpayment of taxes, acquired the property designated as 26 Trufant Street (Map 20, Lot 312); and

WHEREAS, the property consists of a vacant lot; and

WHEREAS, there have been requests that the City make the property available for purchase; and

WHEREAS, there appears to be no utility in the City continuing to own the vacant lot as ad valorem taxes can be collected; and

WHEREAS, the City Council, pursuant to Section 7.114(B)(1) of the Code of the City of Bath has the authority to dispose of the real estate owned by the City of Bath.

NOW, THEREFORE, BE IT ORDERED by the City Council of the City of Bath that the Manager solicit bids for the purchase of the property designated as 26 Trufant Street (Map 20, Lot 312) reserving to the City the right to reject any and all bids, to negotiate with various bidders, to set a minimum bid, and subject to the approval of the City Council for the acceptance of the bid and sale of the property.

Councilor Pagurko made a motion to put this Order on the floor for discussion. Councilor Rogers seconded the motion.

City Manager William Giroux explained the history of this matter.

VOTE:

YEAS: 8

NAYS: 0

Motion passed unanimously. 8-0

6) Resolution Accepting Grant and Authorizing Matching Funds – Waterfront Pier Dolphin Improvement Engineering Project

Chairman Sinclair read the following Resolution:

**RESOLUTION ACCEPTING GRANT
AND AUTHORIZING MATCHING FUNDS**

WHEREAS, the City of Bath has applied for and received a Grant from the Maine State Planning Office for the Bath Waterfront Pier Dolphin Improvement Engineering Project; and

WHEREAS, the City Council is required to accept the Grant and to authorize the expenditure of the City's matching funds; and

WHEREAS, the Grant is in the amount of \$16,977.42 and the City's matching share is \$7,022.58, for a total Project cost of \$24,000.00.

NOW, THEREFORE, BE IT RESOLVED by the City Council as follows:

1. The Grant award from the Maine State Planning Office in the amount of \$16,977.42 be and hereby is accepted.
2. The City authorizes the expenditure of its matching share of \$7,022.58 to be paid from the discretionary funds included in the 2011/2012 Tax Increment Financing Budget.
3. The City Manager is hereby authorized to execute any documentation necessary with regard to the acceptance of the Grant and the Grant administration.

Councilor Wyman made a motion to put this Resolution on the floor for discussion. Councilor Pagurko seconded the motion.

City Planner Andrew Deci stated our Waterfront pier is not able to accommodate large ships. He said this grant would fund the engineering portion of the project to enhance the piers to allow for the docking of the larger vessels.

City Manager William Giroux stated the matching funds would come from TIF.

VOTE:

YEAS: 8

NAYS: 0

Motion passed unanimously. 8-0

7) Resolution – Ratification of CDBG Survey Certifications

Chairman Sinclair read the following Resolution:

**RESOLUTION
RATIFICATION OF CDBG SURVEY CERTIFICATIONS**

WHEREAS, the City Council of the City of Bath executed and certified as to the truth and completion of certain survey information to be provided to the State of Maine Department of Economic and Community Development; and

WHEREAS, the certification was for the purpose of providing a letter of intent to apply for certain CDBG funding; and

WHEREAS, the certification and the letter of intent do not commit the City to any particular future action or the expenditure of funds; and

WHEREAS, the City Director of Community Development has provided appropriate information regarding the survey; and

WHEREAS, it is appropriate that Council action be properly reflected in the records of the City of Bath.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Bath that the action taken by the City to execute the CDBG survey certifications be and hereby is ratified.

Councilor Pagurko made a motion to put this Resolution on the floor for discussion. Councilor Wyman seconded the motion.

VOTE:

YEAS: 8

NAYS: 0

Motion passed unanimously. 8-0

8) Resolution – Approving the Transfer of School Properties

Chairman Sinclair read the following Resolution:

**RESOLUTION APPROVING
THE TRANSFER OF SCHOOL PROPERTIES**

WHEREAS, the City of Bath is now a member of the Regional School Unit 1; and

WHEREAS, the Legislation creating Regional School Unit 1 requires that its member communities transfer to the Regional School Unit all school properties within each community jurisdiction.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Bath that the transfer of the Fisher-Mitchell School property, the Dike-Newell School property, the Bath Middle School property, and the Morse High School property, to Regional School Unit 1 be and hereby is approved. The City Manager is authorized to execute Deeds and such other documentation as may be required to affect the transfers. The transfer documents shall be in a form acceptable to the City Manager.

Councilor Wyman made a motion to put this Resolution on the floor for discussion. Councilor Pagurko seconded the motion.

City Solicitor Roger Therriault explained that when the RSU 1 was set up this was one of the requirements so it is more or less a housekeeping item.

VOTE:

YEAS: 8

NAYS: 0

Motion passed unanimously. 8-0

9) Ordinance – Military Exemption from Excise Taxes (first passage)

Chairman Sinclair read the following Ordinance:

ORDINANCE

WHEREAS, the first regular session of the 125th Maine Legislature has enacted provisions regarding military service personnel deployed or stationed outside of Maine; and

WHEREAS, the provisions of 36 M.R.S.A. Section 1483-A provide a local option for exemption of such military personnel as defined in the provisions of 36 M.R.S.A. Section 1483(17); and

WHEREAS, the City Council of the City of Bath, by Ordinance, chooses to exercise its local option to provide this exemption from annual excise taxes.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Bath that a resident who is on active duty serving in the United States Armed Forces and who is either permanently stationed at a military or naval post, station or base outside this State, or deployed for military service for a period of more than one hundred and eighty (180) days, may apply for an exemption from annual excise taxes regarding any vehicle owned by the military resident. The active duty military resident shall file an application for exemption with the City of Bath on a form for that purpose and present with the application a certification from the Commander of the resident's post, station or base or from the Commander's designee, evidence certifying that the resident is permanently stationed or based at that post or is deployed for military service for a period of more than one hundred and eighty (180) days. Active duty personnel shall include the United States Armed Forces, National Guard, and Reserves.

Councilor Pagurko made a motion to put this Resolution on the floor for discussion. Councilor Wyman seconded the motion.

Finance Director Juli Millett explained a resident had asked to have this approved.

Rabyrne Hutton of 195 High Street asked the Council to pass this Ordinance.

VOTE:

YEAS: Brackett, Merrill, Paulhus, Rogers, Wyman, Eosco, Pagurko, Winglass

NAYS: None

Ordinance passed unanimously. 8-0

Chairman Sinclair stated that second passage of the Ordinance would be on March 7, 2012 at 6:01 PM.

G. Petitions & Communications 7:05 PM

Councilor Paulhus reported on the "Odyssey of the Mind" program that he had attended at the Dike Newell School and highly recommended that everyone should look into it.

H. City Manager's Report 7:05 PM

The following topics were discussed:

- Workshops regarding:
 - Bath Landfill
 - Pine Hill Drive and Richardson Street Flooding Issues – March
 - Willow Street Flooding Issues - March

I. Committee Reports 7:11 PM

Councilor Paulhus reported the Ad Hoc City Flag Committee had a productive meeting and should have something soon for Council to vote on.

Councilor Rogers reported the Ad Hoc Live Streaming of Council Meetings Committee had met and will have more to report next month regarding other communities involved in this process.

Councilor Winglass reported the Recognition Committee met and have looked into interactive signage that will go down at Waterfront Park. He stated the Sagadahoc Budget Advisory Committee is looking for a Bath resident to fill a vacant position.

Councilor Merrill made a report from the Recreation Commission stating that there is now a groomer for the cross-country ski trails, field rentals are going up slightly this year, "Spirit of the Sea" sculpture at Library Park is going to be appraised for insurance purposes, a 5-mile trail race is upcoming. The Bike and Pedestrian Committee met to talk about a new safe bike path through the City.

J. Unfinished Business 7:16 PM

There was no unfinished business.

K. New Business 7:17 PM

10) Appointment 1 member to the Winnegance Alewife Commission for a 3-year term.

Councilor Pagurko nominated Steve Wilson to the Winnegance Alewife Commission for a 3-year term. The appointment was unanimous.

11) Appointment 1 member to the Personnel Service Commission for a 3-year term

Councilor Pagurko nominated Mark Westrum to the Personnel Service Commission for a 3-year term. The appointment was unanimous.

12) Discussion – Council Chairman to visit Sister City

Chairman Sinclair stated that as long as the Council agreed, he and his wife would be willing to go to Tsugaru, Japan representing the City of Bath. Councilor Wyman stated it is very important that the Council Chairman go and asked that the rest of the Council support this. Chairman Sinclair asked if any Councilor felt he and his wife shouldn't go to speak up. No one spoke.

13) Discussion – Huse School Property

City Manager William Giroux explained that the RSU is going to abandon the Huse School this summer and the City will be taking over the building. Mr. Giroux stated that he wanted to get this news out into the public. He expressed concern about how this action could affect the City budget and asked Council to give him direction on how to proceed with this matter.

Chairman Sinclair asked that Mr. Giroux put together a packet of preliminary information that Council will need to have in order to make any recommendations and have it delivered as soon as it is prepared.

City Solicitor Roger Therriault stated there could be land use issues involved in this matter and the Planning Board should be included in future discussions.

14) Discussion – Bath Development Corporation By-Laws

Councilor Rogers explained that he has concerns with the Bath Development Corporation By-Laws are not being followed. Some of his concerns were the minutes were not being filed for public viewing, that Council be more informed about the Corporation's financial budget that the Council passes and the need to add something that would have the building given back to the City by the BCD in so many days after the Brownfield scope of work is done.

Councilor Paulhus asked that snowplowing of the sidewalks be done as soon as possible after a storm for the safety of the children forced to walk to school in the roadways and he would like to see the priority snowplowing list, if possible.

Councilor Paulhus made a request for a public workshop with the Bath City Council and the Skatepark Board of Directors.

Councilor Eosco made a motion to go into Executive Session at 7:37 PM to discuss a Personnel Matter per 1 MRSA §405(6)(A). Councilor Merrill seconded the motion. All were in favor of the motion.

Councilor Pagurko made a motion to come out of Executive Session at 8:45 PM. Councilor Eosco seconded the motion. All were in favor of the motion.

The meeting adjourned at 8:46 PM with a motion by Councilor Wyman, seconded by Councilor Pagurko. All were in favor of the adjournment.

Attest:



Mary J. White, City Clerk

Please note: These minutes are not recorded verbatim. A DVD recording of the meeting is available for review in the City Clerk's office during regular business hours by appointment.